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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,058	10/21/2003	James M. Holden	MTIPAT.30CP1C2	6843
20995	7590	06/30/2004	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			VU, VIET DUY	
		ART UNIT	PAPER NUMBER	
		2154		

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**BEST AVAILABLE COPY**

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/691,058	HOLDEN ET AL.	
	Examiner	Art Unit	
	Viet Vu	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 24 May 2004.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-25 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-25 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## **BEST AVAILABLE COPY**

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 5/24/04.

4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**Non-Art Rejections:**

1. The following non-statutory double patenting rejection is based on a judicially created doctrine grounded in public policy so as to prevent the unjustified or improper timewise extension of the right to exclude granted by a patent. In re Sarett, 327 F.2.d 1005, 140 USPQ 474 (CCPA 1964); In re Schneller, 397 F.2.d 350, 158 USPQ 210 (CCPA 1968); In re White, 405 F.2.d 904, 160 USPQ 644 (CCPA 1969); In re Thorington, 418 F.2.d 528, 163 USPQ 644 (CCPA 1969); In re Vogel, 422 F.2.d 438, 164 USPQ 619 (CCPA 1970); In re Van Ornam, 686 F.2.d 937, 214 USPQ 761 (CCPA 1970); In re Longi, 759 F.2.d 887, 225 USPQ 645 (Fed. Cir. 1985); and In re Goodman, 29 USPQ 2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. § 1.78(d).

2. Claims 1-25 are rejected under the judicially created doctrine of double patenting as being unpatentable over prior U.S. Patent No. 5,828,832.

Although the conflicting claims are not identical, they are not patentable distinct from each other because prior claims 1-20 comprise all limitations recited in the present claims 1-25.

3. Claims 1-25 are also rejected under the judicially created doctrine of double patenting as being unpatentable over prior U.S. Patent No. 6,272,639.

Although the conflicting claims are not identical, they are not patentable distinct from each other because prior claims 1-20 comprise all limitations recited in the present claims 1-25.

4. Claims 1-25 are also rejected under the judicially created doctrine of double patenting as being unpatentable over prior U.S. Patent No. 6,643,698.

Although the conflicting claims are not identical, they are not patentable distinct from each other because prior claims 1-25 comprise all limitations recited in the present claims 1-25.

**Art Rejection:**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in—

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. Claims 5-9 are rejected under 35 U.S.C. § 102(e) as being clearly anticipated by Kirby et al, U.S. pat. No. 5,898,784.

Kirby discloses a system for controlling communications from secured users over a public network to an unsecured user comprising:

a) a network security device (16, fig. 2) for permitting communication over the public network (Internet 20, fig. 2) between a secured user (54, fig. 2) and an unsecured user (18, fig. 2) and for dynamically determining whether a user is one of secured user or unsecured user (see col 4, lines 1-29),

b) a control module for blocking passage of information from the secured user to the unsecured user when not permissible (col 7, lines 25-39 and step 196, fig. 11),

c) an encryptor for encrypting information residing with the secured user (see col 4, lines 30-42).

**Conclusion:**

7. The references cited by the examiner on PTO-892 but not relied upon are considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is (703) 305-9597. The examiner can normally be reached on Monday through Thursday from 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on (703) 305-8498.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



VIET D. VU  
PRIMARY EXAMINER

Art Unit 2154  
6/25/04